

Nos. 22-3493/3653

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

**FILED**

Sep 12, 2022

DEBORAH S. HUNT, Clerk

In re: National Prescription Opiate Litigation. )

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In re: HARRIS COUNTY, TX, et al., )

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O R D E R

Petitioners (No. 22-3493). )

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In re: ADAMS COUNTY, PA, et al., )

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Petitioners (No. 22-3653). )

Before: SUTTON, Chief Judge; GUY and COLE, Circuit Judges.

These cases both relate to a Common Benefit Order (“CBO”) entered by the district court in the National Prescription Opiate Multidistrict Litigation. *In re Nat'l Prescription Opiate Litig.*, 290 F. Supp. 3d 1375 (J.P.M.L. 2017). The CBO manages access to discovery material generated in large part by the sixteen-member Plaintiffs’ Executive Committee (“PEC”) and made available to litigants in other opiate cases, and it dictates a cost-sharing structure funded in part by attorney fee remissions from counsel who benefit from the PEC’s work.

In *In re Harris County, Texas*, No. 22-3493, more than 600 counties and municipalities in Texas, New Mexico, Arkansas, and South Carolina petition this court for a writ of mandamus requiring the district court to vacate the CBO, arguing, among other things, that the district court has no jurisdiction over their state-court opiate cases. The district court has responded and

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subsequently entered an order below, seeking to clarify two footnotes in the CBO that Petitioners had discussed in their petition. Petitioners move for leave to file a reply in support of their petition and have tendered that reply.

In *In re Adams County, PA*, No. 22-3653, eighty-four counties and municipalities in Pennsylvania, Ohio, Delaware, Oklahoma, and Mississippi filed their own mandamus petition, joining Harris County's petition and seeking similar relief on similar bases. Because of their similarity, we consider both petitions in a single order.

We may order a respondent to answer a petition for a writ of mandamus. Fed. R. App. P. 21(b)(14). The PEC has a significant interest in the enforcement of the CBO and a unique perspective on the matter that has not yet been presented. That perspective would assist the court in its consideration of the mandamus petitions.

Accordingly, the PEC is **ORDERED** to respond to the mandamus petitions filed in both cases within thirty (30) days of the entry date of this order. The motion for leave to file a reply in No. 22-3493, is **GRANTED**.

ENTERED BY ORDER OF THE COURT



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Deborah S. Hunt, Clerk